

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JEANNETTE FULLER HAUSLER, et. al, : 09 Civ. 10289 (VM)
Petitioner, :
v. : Related to JPM Chase/Citibank
: Turnover Proceeding
JP MORGAN CHASE BANK, N.A., et. al, : In Respect of a Judgment Entered
Garnishee-Respondents. : in the State of Florida
: Case No. 02-12475-CA-09

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JP MORGAN CHASE BANK, N.A., et. al : Tranche III
Garnishee-Respondents and :
Third-Party Petitioners, :
v. :
BANCO NACIONAL DE CUBA, et. al, :
Adverse Claimants- :
Respondents. :
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ANSWER TO THIRD PARTY PETITION

Adverse Claimant-Respondent Banco Español De Crédito (“BANESTO”) submits this Answer to the Third Party Petition for Interpleader.

RESPONSES

1. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the first paragraph of the Third Party Petition.

2. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the second paragraph of the

Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

3. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the third paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

4. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the fourth paragraph of the Third Party Petition.

5. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the fifth paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

6. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the sixth paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

7. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the seventh paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

8. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the eighth paragraph of the Third Party Petition.

9. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the ninth paragraph of the Third Party Petition.

10. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the tenth paragraph of the Third Party Petition.

11. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the eleventh paragraph of the Third Party Petition.

12. BANESTO states that the twelfth paragraph of the Third Party Petition consists of a quotation to the TRIA to which no response is required.

13. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the thirteenth paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

14. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the fourteenth paragraph of the Third Party Petition.

15. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the fifteenth paragraph of the

Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

16. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the sixteenth paragraph of the Third Party Petition.

17. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the seventeenth paragraph of the Third Party Petition.

18. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the eighteenth paragraph of the Third Party Petition.

19. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the nineteenth paragraph of the Third Party Petition.

20. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the twentieth paragraph of the Third Party Petition.

21. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the twenty-first paragraph of the Third Party Petition.

22. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the twenty-second paragraph

of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

23. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the twenty-third paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

24. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the twenty-fourth paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

25. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the twenty-fifth paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

26. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in paragraphs 26a through 26g, 26i through 26j, and 26l through 26jj of the Third Party Petition. BANESTO admits the allegations contained in paragraphs 26h and 26k of the Third Party Petition.

27. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in paragraphs 27a through 27c of the Third Party Petition.

28. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in paragraphs 28a through 28d of the Third Party Petition.

29. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in paragraphs 29a through 29j of the Third Party Petition.

30. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in paragraphs 30a through 30f, 30h, and 30j through 30k of the Third Party Petition. With respect to paragraph 30g, BANESTO denies the allegations except that BANESTO admits that it was the originator bank for a wire transfer in the amount of \$72,831.07 on May 16, 1994, that BNP Paribas España S.A. was the beneficiary bank, and that Chase Manhattan Bank, as the intermediary, blocked the transaction. With respect to paragraph 30i, BANESTO denies the allegations except that BANESTO admits that it was the originator bank for a wire transfer in the amount of \$51,728.63 on May 17, 1994, that BNP Paribas was the beneficiary bank, and that Chase Manhattan Bank, as the intermediary, blocked the transaction.

31. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the thirty-first paragraph of the Third Party Petition.

32. BANESTO admits that it has a property interest in funds identified in paragraph 30g and 30i, but lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the thirty-second paragraph of the Third Party Petition.

33. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the thirty-third paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

34. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the thirty-fourth paragraph of the Third Party Petition.

35. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the thirty-fifth paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

36. BANESTO lacks sufficient knowledge or information to either admit or deny the allegations in this paragraph and therefore denies the allegations in the thirty-sixth paragraph of the Third Party Petition. To the extent the allegations state legal conclusions, no response is required.

37. Except as specifically admitted herein, BANESTO denies the allegations in the Third Party Petition.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Adverse Claimant-Respondent is not liable to the Plaintiff because of an accord and satisfaction.

SECOND AFFIRMATIVE DEFENSE

Adverse Claimant-Respondent is not liable to the Plaintiff because of subsequent separate payment.

THIRD AFFIRMATIVE DEFENSE

Adverse Claimant-Respondent is entitled to the funds as the originating bank for the transfer.

FOURTH AFFIRMATIVE DEFENSE

Adverse Claimant-Respondent is entitled to the funds because they are not the assets of the Cuban Government.

FIFTH AFFIRMATIVE DEFENSE

Adverse Claimant-Respondent is entitled to the funds because the transfer was the result of an error by Adverse Claimant/Respondent and should not properly have been blocked.

SIXTH AFFIRMATIVE DEFENSE

Adverse Claimant-Respondent intends to rely on such other defenses that may become available or apparent, and reserves the right to amend this Answer to assert any and all defenses.

WHEREFORE, Adverse Claimant-Respondent Banco Español De Crédito requests that the Court enter judgment determining:

- a. That the funds blocked at JP Morgan Chase in the name of Banco Español De Crédito are not assets of the Republic of Cuba or an instrumentality of the Republic of Cuba and thus may not be used to satisfy any judgment against the Republic of Cuba;
- b. That judgment be entered in favor of Adverse Claimant-Respondent Banco Español De Crédito directing the release of the blocked funds in the amounts of \$72,831.07 and \$51,728.63, plus interest currently blocked at JP Morgan Chase;
- c. Awarding Adverse Claimant-Respondent Banco Banco Español De Crédito costs and reasonable attorneys fees in defending this action, and such other and further relief as may be appropriate.

Dated: March 28, 2011

Respectfully submitted,

HUNTON & WILLIAMS LLP

/s/ Paulo R. Lima

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Español De Crédito*

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2011, I electronically filed a copy of the foregoing ANSWER TO THIRD PARTY PETITION, which will cause a copy to be served on all counsel of record via the Court's CM/ECF system. I further certify that a true copy is being served via U.S. mail on all counsel of record not registered to receive an automatic notice of electronic filing.

/s/ Paulo R. Lima
For Hunton & Williams LLP